

AMENDED IN ASSEMBLY MAY 5, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2591

Introduced by Assembly Member Leno

February 20, 2004

An act to amend Sections ~~5353.5 and 5371.4~~ 5371.4, 5411, and 5411.5 of the Public Utilities Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2591, as amended, Leno. Charter-party carriers: limousines.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including charter-party carriers of passengers.~~

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Charter-party carriers of passengers are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. The act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the carrier's operation or, in the case of some carriers, to obtain a permit to conduct operations issued by the commission, and to operate within the state on a prearranged basis, as defined. The act prohibits the commission from issuing or renewing a permit unless the applicant has met specified requirements, including the submission of specified filing fees. The

~~The act does not apply to transportation service, other than transportation service furnished in a limousine for hire, rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance. The act prohibits the governing body of any city, county, or city and county from imposing business license fees on charter-party carriers operating limousines.~~

~~This bill would delete those prohibitions and make conforming changes to other related provisions of law.~~

~~The act, but~~ authorizes the governing body of any city, county, or city and county to impose a business license fee on any charter-party carrier domiciled or maintaining a business office within that city, county, or city and county. ~~The act prohibits the governing body of an airport from imposing vehicle safety, licensing, or insurance requirements on charter-party carriers operating limousines that are more burdensome than those imposed by the commission, with certain exceptions pertaining to airport operations.~~

~~This bill would additionally authorize the governing body of any city, county, or city and county to impose a business license fee on any charter-party carrier operating at an airport owned or operated by that city, county, or city and county.~~ authorize a city, county, or city and county to impose reasonable rules for the inspection of waybills of charter-party carriers of passengers operating within the jurisdiction of the city, county, or city and county.

(2) Existing law authorizes a peace officer that arrests a person for operating a charter-party carrier of passengers without a valid certificate or permit at a public airport or within two miles of the international border with Mexico, to impound and retain possession of the vehicle, subject to certain exceptions and provisions for notice and return of the vehicle.

This bill would authorize a peace officer, as defined, that arrests a person for operating a charter-party carrier of passengers without a valid certificate or permit to impound and retain possession of the vehicle, subject to certain exceptions and provisions for notice and return of the vehicle. The bill would make the operation of a motor vehicle without possession of a valid permit or operating authority a public nuisance and would authorize any peace officer to remove any motor vehicle located within the territorial limits in which the officer may act, when the vehicle is found upon a public highway and is being used in a manner constituting a public nuisance. The bill would authorize the law enforcement agency to impound the vehicle for a

period not to exceed 72 hours, upon the request of the commission, the Attorney General, district attorney, city attorney, or county counsel, to enable the requesting agency to abate the public nuisance, to obtain an order from the superior court of the county in which the vehicle has been impounded to prevent the use of the motor vehicle in violation of law, and to obtain any other available remedy.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 5353.5 of the Public Utilities Code is~~
2 ~~SECTION 1. Section 5371.4 of the Public Utilities Code is~~
3 ~~amended to read:~~
4 5371.4. (a) The governing body of any city, county, or city
5 and county may not impose a fee on charter-party carriers
6 operating limousines. However, the governing body of any city,
7 county, or city and county may impose a business license fee on,
8 and may adopt and enforce any reasonable rules and regulations
9 pertaining to operations within its boundaries for, any
10 charter-party carrier domiciled or maintaining a business office
11 within that city, county, or city and county.
12 (b) The governing body of any airport may not impose vehicle
13 safety, vehicle licensing, or insurance requirements on
14 charter-party carriers operating limousines that are more
15 burdensome than those imposed by the commission. However, the
16 governing board of any airport may require a charter-party carrier
17 operating limousines to obtain an airport permit for operating
18 authority at the airport.
19 (c) Notwithstanding subdivisions (a) and (b), the governing
20 body of any airport may adopt and enforce reasonable and
21 nondiscriminatory local airport rules, regulations, and ordinances
22 pertaining to access, use of streets and roads, parking, traffic
23 control, passenger transfers, trip fees, and occupancy, and the use
24 of buildings and facilities, that are applicable to charter-party
25 carriers operating limousines on airport property.
26 (d) This section does not apply to any agreement entered into
27 pursuant to Sections 21690.5 to 21690.9, inclusive, between the
28 governing body of an airport and charter-party carriers operating
29 limousines.



(e) The commission shall conduct an audit and review of the annual gross revenues earned by charter-party carriers operating limousines for the purpose of ascertaining whether the imposition of additional fees based on a charter-party carrier's gross annual revenues would place an undue administrative or financial burden on the charter-party carrier industry. The commission shall report its findings to the Legislature on or before June 30, 1992.

(f) The governing body of any airport shall not impose a fee based on gross receipts of charter-party carriers operating limousines.

(g) Notwithstanding subdivisions (a) to (f), inclusive, nothing in this section prohibits a city, county, city and county, or the governing body of any airport, from adopting and enforcing reasonable permit requirements, fees, rules, and regulations applicable to charter-party carriers of passengers other than those operating limousines.

(h) *Notwithstanding subdivisions (a) to (f), inclusive, a city, county, or city and county may impose reasonable rules for the inspection of waybills of charter-party carriers of passengers operating within the jurisdiction of the city, county, or city and county.*

(i) For the purposes of this section, "limousine" includes any luxury sedan, of either standard or extended length, with a seating capacity of not more than nine passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state.

SEC. 2. *Section 5411 of the Public Utilities Code is amended to read:*

5411. (a) Every charter-party carrier of passengers and every officer, director, agent, or employee of any charter-party carrier of passengers who violates or who fails to comply with, or who procures, aids, or abets any violation by any charter-party carrier of passengers of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or of any operating permit or certificate issued to any charter-party carrier of passengers, or who procures, aids, or abets any charter-party carrier of passengers in its failure to obey, observe, or comply with any ~~such~~ *commission* order, decision, rule, regulation, direction, demand, or requirement, or any operating permit or certificate, is

1 guilty of a misdemeanor and is punishable by fine of not more than
2 one thousand dollars (\$1,000) or by imprisonment in the county
3 jail for not more than three months, or both.

4 *(b) The operation of a motor vehicle used as a charter-party*
5 *carrier of passengers that does not possess a valid permit or*
6 *operating authority, as required by Article 2 (commencing with*
7 *Section 5371), constitutes a public nuisance. Any peace officer, as*
8 *defined in Chapter 4.5 (commencing with Section 830) of Title 3*
9 *of Part 2 of the Penal Code, may remove any motor vehicle located*
10 *within the territorial limits in which the officer may act, when the*
11 *vehicle is found upon a public highway and is being used in a*
12 *manner constituting a public nuisance. At the request of the*
13 *commission, the Attorney General, district attorney, city attorney,*
14 *or county counsel, the law enforcement agency may impound the*
15 *vehicle for a period not to exceed 72 hours to enable the requesting*
16 *agency to abate the public nuisance, to obtain an order from the*
17 *superior court of the county in which the vehicle has been*
18 *impounded to prevent the use of the motor vehicle in violation of*
19 *law, and to obtain any other remedy available under law as*
20 *permitted by Section 5416.*

21 *SEC. 3. Section 5411.5 of the Public Utilities Code is*
22 *amended to read:*

23 5411.5. (a) Whenever a peace officer, as defined in Chapter
24 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
25 Code, arrests a person for a violation of Section 5411 involving the
26 operation of a charter-party carrier of passengers without a valid
27 certificate or permit ~~at a public airport, within 100 feet of a public~~
28 ~~airport, or within two miles of the international border between the~~
29 ~~United States and Mexico,~~ the peace officer may impound and
30 retain possession of the vehicle used in violation of Section 5411.

31 (b) If the vehicle is seized from a person who is not the owner
32 of the vehicle, the impounding authority shall immediately give
33 notice to the owner by first-class mail.

34 (c) The vehicle shall immediately be returned to the owner
35 without cost to the owner if the infraction or violation is not
36 prosecuted or is dismissed, the owner is found not guilty of the
37 offense, or it is determined that the vehicle was used in violation
38 of Section 5411 without the knowledge and consent of the owner.
39 Otherwise, the vehicle shall be returned to the owner upon
40 payment of any fine ordered by the court. After the expiration of

1 six weeks from the final disposition of the criminal case, the
2 impounding authority may deal with the vehicle as lost or
3 abandoned property under Section 1411 of the Penal Code.

4 (d) At any time, a person may make a motion in superior court
5 for the immediate return of the vehicle on the ground that there was
6 no probable cause to seize it or that there is some other good cause,
7 as determined by the court, for the return of the vehicle. A
8 proceeding under this section is a limited civil case.

9 (e) No peace officer, however, may impound any vehicle
10 owned or operated by a nonprofit organization exempt from
11 taxation pursuant to Section 501(c)(3) of the Internal Revenue
12 Code which serves youth or senior citizens and provides
13 transportation incidental to its programs or services.

14 ~~amended to read:~~

15 ~~5353.5.— On and after July 1, 1989, this chapter does not apply~~
16 ~~to transportation service rendered wholly within the corporate~~
17 ~~limits of a single city or city and county and licensed or regulated~~
18 ~~by ordinance.~~

19 ~~SEC. 2.— Section 5371.4 of the Public Utilities Code is~~
20 ~~amended to read:~~

21 ~~5371.4.— The governing body of any city, county, or city and~~
22 ~~county may impose a business license fee on, and may adopt and~~
23 ~~enforce any reasonable rules and regulations pertaining to~~
24 ~~operations within its boundaries for, any charter-party carrier~~
25 ~~domiciled or maintaining a business office within that city, county,~~
26 ~~or city and county, or operating at an airport owned or operated by~~
27 ~~that city, county, or city and county.~~

